

§ 767.20

32 CFR Ch. VI (7–1–16 Edition)

by registered or certified mail (with return receipt requested) on the respondent, the respondent's agent for service of process or on a representative designated by that agent for receipt of service. Refusal by the respondent, the respondent's agent, or other designated representative to be served, or refusal by his or her designated representative of service of a document will be considered effective service of the document as of the date of such refusal. Service will be considered effective on the date the document is mailed to an addressee's last known address.

(b) A document will be considered served and/or filed as of the date of the postmark; or (if not mailed) as of the date actually delivered in person; or as shown by electronic mail transmission.

(c) Time periods begin to run on the day following service of the document or date of the event. Saturdays, Sundays, and Federal holidays will be included in computing such time, except that when such time expires on a Saturday, Sunday, or Federal holiday, such period will be extended to include the next business day. This method of computing time periods also applies to any act, such as paying a civil penalty or liability for damages, required by this part to take place within a specified period of time.

§ 767.20 Requirements of respondent or permit holder upon service of a NOVA.

(a) The respondent or permit holder has 45 days from service receipt of the NOVA in which to reply. During this time the respondent or permit holder may:

(1) Accept the penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(2) Seek to have the NOVA amended, modified, or rescinded under paragraph (b) of this section;

(3) Request a hearing before a DOHA Administrative Judge under paragraph (f) of this section;

(4) Request an extension of time to respond under paragraph (c) of this section; or

(5) Take no action, in which case the NOVA becomes final in accordance with § 767.22(a).

(b) The respondent or permit holder may seek amendment, modification, or rescindment of the NOVA to conform to the facts or law as that person sees them by notifying the Director of the NHHC in writing at the address specified in the NOVA. If amendment or modification is sought, the Director of the NHHC will either amend the NOVA or decline to amend it, and so notify the respondent, permit holder, or vessel owner, as appropriate.

(c) The respondent or permit holder may, within the 45-day period specified in paragraph (a) of this section, request in writing an extension of time to respond. The Director of the NHHC may grant an extension in writing of up to 30 days unless he or she determines that the requester could, exercising reasonable diligence, respond within the 45-day period.

(d) The Director of the NHHC may, for good cause, grant an additional extension beyond the 30-day period specified in paragraph (c) of this section.

(e) Any denial, in whole or in part, of any request under this section that is based upon untimeliness will be in writing.

(f) If the respondent or permit holder desires a hearing, the request must be in writing, dated and signed, and must be sent by mail to the Director, Defense Office of Hearings and Appeals, 875 North Randolph St., Suite 8000, Arlington, VA 22203. The Director, Defense Office of Hearings and Appeals may, at his or her discretion, treat any communication from a respondent or a permit holder as a proper request for a hearing. The requester must attach a copy of the NOVA. A single hearing will be held for all parties named in a NOVA and who timely request a hearing.

§ 767.21 Hearings.

(a) Hearings before a DOHA Administrative Judge are *de novo* reviews of the circumstances alleged in the NOVA and penalties assessed. Hearings are governed by procedures established by the Defense Office of Hearings and Appeals. Hearing procedures will be provided in writing to the parties and may be accessed on-line at <http://www.dod.mil/dodgc/doha/>. Hearings shall be held at